

Appl. No. 09/910,462
Amtd. dated July 12, 2006
Reply to Office Action of March 15, 2006

PATENT

REMARKS/ARGUMENTS

Claims 1-6 were pending in the present application. The present response amends claims 1-5, cancels claim 6, and adds new claims 7-10, leaving pending in the application claims 1-5 and 7-10. Reconsideration of the rejected claims and consideration of the newly presented claims is respectfully requested.

I. Objection to the Oath/Declaration

The declaration is objected to as failing to include the mailing address and residence address. A newly executed declaration including such information is submitted herewith. Applicants therefore respectfully request that the objection to the oath be withdrawn and the newly executed declaration be accepted.

II. Rejection under 35 U.S.C. §112

Claims 1, 5, and 6 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, these claims are rejected as reciting an improper Markush group. Claims 1 and 5 as amended each recite a proper Markush group, and claim 6 has been canceled. Applicants therefore respectfully request that the rejection with respect to claims 1 and 5, and dependent claims 2-4, be withdrawn.

III. Rejection under 35 U.S.C. §103

Claims 1-6 are rejected under 35 U.S.C. §103(a) as being obvious over *Brigida* (US 5,313,051). Applicants respectfully submit that *Brigida* does not teach or suggest each element of these claims as amended.

For example, Applicants' claim 1 as amended recites a method of delivering at least one item or service from a provider to a receiver, the method comprising:

placing an order for at least one item or service with the provider;
obtaining at least one piece of data from the receiver at the time of delivery, the at least one piece of data being from a group consisting of a credit card number, information on the magnetic strip of a credit card, a debit card number,

Appl. No. 09/910,462
Amdt. dated July 12, 2006
Reply to Office Action of March 15, 2006

PATENT

information on the magnetic strip of a debit card, a check, a money order, a gift certificate, information on a chip card, data included on a device storing information that may be read by infrared, magnetic waves, or radio waves, a gift certificate number, a reference number, a tracking number, an authorization number, an electronic signature, a copy of a piece of identification of the receiver, and a purchase order number;

providing the at least one piece of data obtained at the time of delivery to a financial processor;

in response to the at least one piece of data being provided to the financial processor, providing payment for the at least one item or service from the financial processor to the provider; and

in response to payment being provided to the provider, delivering the at least one item or service to the receiver

(*emphasis added*). Such limitations are neither taught nor suggested by *Brigida*.

Brigida teaches a parcel tracking system that identifies packages by reading bar codes on the packages, keying in data, capturing a digital signature of a recipient, and transmitting that data to a host system (col. 2, lines 28-33; Abstract). A delivery person collects information for delivery and pickup including package IDs, COD information, destination, and timestamp information (col. 9, lines 50-56). *Brigida* simply records delivery and pickup information, and does not do real-time transmission of information at substantially the time of delivery, upon which payment and/or delivery are contingent. *Brigida* does not teach or suggest providing data obtained at the time of delivery to a financial processor, in response to which payment is provided to the provider, as recited in Applicants' claim 1. *Brigida* does not teach or suggest transmitting any information to a financial processor, but instead teaches the transmission of delivery and pickup information to a "host system." The Office Action states on page 4 that *Brigida* teaches a financial processor at col. 5, lines 29-42, but it is respectfully submitted that this "processor" is a standard CPU-style processor in a hand-held computer device for executing computer instructions relating to capturing delivery information, and is not a financial processor as recited in Applicants' claim 1. *Brigida* does not teach or suggest that the processor has access to instructions relating to financial decisions, such that the processor cannot even be construed to be a financial processor.

Further, *Brigida* does not teach or suggest providing payment for the at least one item or service from the financial processor to the provider in response to the at least one piece of data collected at the time of delivery being provided to the financial processor, and in response to

Appl. No. 09/910,462
Amdt. dated July 12, 2006
Reply to Office Action of March 15, 2006

PATENT

payment being provided to the provider, delivering the at least one item or service to the receiver as recited in Applicants' claim 1. *Brigida* does not teach or suggest payment to the provider being based on information provided to a financial processor, and delivery being contingent upon such payment being provided from a financial processor to the provider at the time of delivery. Even reading *Brigida* in the most favorable view, where the delivery person collects COD information and delivery would only be complete upon collection of the COD information, there is no providing of this COD information to a financial provider at the time of delivery, whereby payment is provided to the provider, and then delivery is made to the recipient upon all those conditions being met. *Brigida* only teaches collecting information at the time of delivery, and does not teach or suggest financial processing at the time of delivery and delivery being contingent on the outcome of the financial processing. As such, claim 1 and dependent claims 2-5 cannot be rendered obvious by *Brigida*. Applicants' claim 5 recites limitations that similarly are not rendered obvious by *Brigida*. Applicants therefore respectfully request that the rejection with respect to claims 1-5 be withdrawn.

IV. Amendment to the Claims

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter to the specification.

V. Newly Presented Claims

Claims 7-10 have been added to cover different aspects of the present invention. In particular, claim 7 recites obtaining identifying information from an intended recipient at substantially a time of delivery for the item or service, receiving a determination as to whether payment for the item or service is at least one of approved and accepted based on the obtained identifying information before, and delivering the item or service only when the received determination indicates that payment for the item or service is at least one of approved and accepted. As discussed above, *Brigida* does not disclose, teach, or suggest such limitations, such that claims 7-10 should be allowable over *Brigida*. These claims are supported by the

Appl. No. 09/910,462
Amtd. dated July 12, 2006
Reply to Office Action of March 15, 2006

PATENT

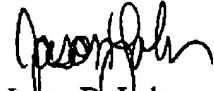
specification and do not add new matter. Applicants therefore respectfully request consideration of newly presented claims 7-10.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Jason D. Lohr
Reg. No. 48,163

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachment
JDL:ndl
60815882 v1